

Remarks/Arguments

Claims 1-2, 5-8, 10-11, 14, 19, 23, 45, 49, 52, 54, 55, 65-67 and 70 are and will continue to be pending in this application upon entry of this amendment. Claims 71, 80, 97-91, 97, 102 and 103 stand withdrawn. A fee for a one (1) month extension is included herewith. Claims 1, 2 and 66 have been amended herein. No claims have been added or canceled.

The Examiner has rejected all claims under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,456,749 to Kasabach et al. ("Kasabach"). For a claim to be anticipated, every recitation of the claim must be found in the reference. In addition, the Examiner must demonstrate that the identical invention is "shown in as complete detail as contained in the....claim," and that the elements are "arranged as required by the claim...." M.P.E.P. § 2131.

Claim 1, as amended, recites in pertinent part:

" . . . a data processing unit to calculate biometric data for personal identification as a function of sound signals that are recorded by said microphone from the hand-guided movements."

Claim 1 recites that the sound signals recorded by the microphone are from hand-guided movements (for example, the scratching of the pen), and further that these sound signals are used to produce biometric data for personal identification, that is, to identify who is writing. It is impossible to Kasabach to disclose this identical invention is as complete detail as recited in claim 1.

Kasabach shows in a device 10 including a writing instrument 12 (col. 2 line 66 to col. 3 line 4). Device 10 can include an audio interface system 21 including a speaker 22 and a microphone 24 (see col. 4 lines 15, 16). This audio interface 21 of device 10 **allows conventional telephony communications**. Furthermore the device 10 can be **programmed to record audio dictation to translate audio input into text**. Device 10 can track the movement of the writing tip 16 relative to the substrate surface by means of a pressure sensor 34 and accelerometers 36 in order to recognize handwriting and translate the handwriting into text (see col. 4, line 43 through col. 5, line 39). Accordingly the cited

document discloses an acoustic writing system having a pen housing for making hand-guided movements on a substrate and at least one microphone which is integrated or connected to the pen housing. The microphone 24 of the audio interface 21 are provided to record audio dictation of a person, they are not used to provide biometric data for identification based on the sounds of the pen movements. Any information collected by any input devices in device 10 of Kasaback is directed towards producing electronic text to be transferred over a data interface, not towards producing biometric data for personal identification.

Kasaback is completely silent about biometric data calculated by the processor as a function of sound signals. Kasaback describes that the processor can be programmed to convert writing to electronic text using various inputs and using conventional algorithms for this purpose. Claim 1, as amended, is patentably distinguishable from Kasaback.

Claims 2, 5-8, 10-11, 14, 19, 23, 45, 49, 52, 54, 55, 65-67 and 70 are all dependent claims which incorporate the recitations of claim 1 through dependency and are patentably distinguishable from Kasaback for at least the same reasons discussed above. Claim 2 has been amended for consistency with amended claim 1.

Claim 66, as amended, references the production of a personal identification or verification signal. Such signals cannot exist in Kasaback, since the system of Kasaback does not provide for personal identification of the writer, as discussed above. Claim 67 recites the identification of stored biometric data as stolen. For teaching corresponding to this recitation of claim 67, the Examiner refers to col. 5, lines 35-39 of Kasaback regarding storing unrecognized handwriting. The idea of storing unrecognized handwriting is completely disjunct from the idea of recognizing stolen biometric data. Since claims 66 and 67 is being rejected under Section 102, the Examiner must again show that these recitations are shown in as complete detail as contained in the claim and are arranged as required by the claim. The Examiner has failed to meet this burden for these recitations. Claims 66 and 67 are patentably distinguishable from Kasaback for these additional reasons.

Applicant believes he has responded to the Examiner's concerns, and that the

application is in condition for allowance. Reconsideration of this application as amended is hereby requested.

Date: 11-6-2009

Respectfully submitted,

By: 

Steven B. Phillips
Registration No. 37,911
Moore & Van Allen PLLC
430 Davis Drive, Suite 500
P.O. Box 13706
Research Triangle Park, NC 27709
Phone: 919-286-8000
Facsimile: 919-286-8199